IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE D.S.R.VARMA

WRIT PETITION NO : 5232 of 2005

Between:

M/s. Pioneer Distilleries Limited, Regd.Office & Factory at Balpur Village, Dharmabad Taluk, Nanded District, Maharastra State, Represented by its Managing Director - K. Suhan Rao

..... PETITIONER

AND

1 The Commissioner of Prohibition and Excise, Andhra Pradesh, Hyderabad.
2 The Prohibition and Excise Superintendent, Khammam District, Khammam.
3 Madhucon Sugars Limited, Factory at Rajeswarapuram, Ammagudem Post, Nelakondapalli Mandal, Khammam District.

..... RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate Writ, Order or direction, preferably one in the nature of Writ of Mandamus, declaring that the Respondents have no jurisdiction to cause any restriction on the transport of Molasses by the petitioner from Andhra Pradesh State to any other place in the other States in India as such restriction is illegal and without jurisdiction apart from being violation of Article 19(1)(g) of the Constitution of India and pass such other or further orders as are necessary.

Counsel for the Petitioner: MR.E.MARUTHI RAJA

Counsel for the Respondents1 & 2: G.P. FOR PROHIBITION & EXCISE

The Court at the stage of admission made the following:

ORAL ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for Prohibition and Excise appearing on behalf of the Respondents 1 & 2.

2. The petitioner seeks a writ of Mandamus declaring that the respondents have no jurisdiction to restrict the transport of Molasses by the petitioner from the State of Andhra Pradesh to any other place within the State to other States.

3. In similar circumstances, a learned Judge of this Court disposed of the W.P.No.19740 of 2004, by order, dated 28-10-2004, having regard to the fact that the issue involved in the said writ petition is squarely covered by the decision of this Court in W.P.No.8136 of 2004 [***M/s.Gauri Industries (Manufactures of Rectified Spirit) Vs. Commissioner of Prohibition and Excise, Andhra Pradesh***], wherein it was held as under:

> "It is a fact that the possession as well as transportation of Molasses was being controlled by the Molasses Control Order, issued by the Central Government. But, however, the said Control Order was rescinded by the Central Government as early as in 1993. Thereafter, there were no provisions either in the A.P. Excise Act or under any Rules framed by the State Government and this fact was clarified by a Division Bench of

this Court in Writ Appeal No.2209 of 1998, dated 08-05-2001.

The restriction of transportation of molasses is only if it is intended for utilization of illicit distillation and on such occasions only the respondent authority can take action. But, however, if any individual is transporting the Molasses under a valid purchase bills to the destination of the purchaser, the respondents authority have no right to interfere with such transportation.

Therefore, the writ petition is disposed of clarifying the position that the respondents have no right to insist the petitioner for any permission or for obtaining NOC for transport of Molasses from the Sugar Factories to any other specified destination for being used by the purchaser."

4. Accordingly, the present writ petition is disposed of, at the stage of admission, with the same directions/observations and clarifications extracted supra.

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D.S.R. VARMA, J

16th MARCH 2005

ISN/PAN

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Commissioner of Prohibition and Excise, Andhra Pradesh, Hyderabad.
2 The Prohibition and Excise Superintendent, Khammam District, Khammam.
3 Madhucon Sugars Limited, Factory at Rajeswarapuram, Ammagudem Post, Nelakondapalli Mandal, Khammam District.

4. Two CCs to G.P. for Prohibition & Excise, High Court Buildings,

Hyderabad (OUT).

5. Two CD copies

6. One CC to MR.MARUTHI RAJA, learned counsel for the petitioner.

THE HON'BLE SRI JUSTICE D.S.R.VARMA

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16TH MARCH 2005